

S # - 81



April 4, 2005

101 N. Wilmot Rd., Suite 600  
Tucson, AZ 84711-3365

Gary M. Jackson  
Assistant Administrator for Size Standards  
Office of Size Standards  
Small Business Administration  
409 Third Street, SW  
Washington, DC 20416

**Re: Proposed Rulemaking Affecting SBIR Funding**

Dear Mr. Jackson:

On behalf of Sertoli Technologies Inc., I want to thank you for the opportunity to comment on the Small Business Administration's (SBA) Advance Notice of Proposed Rulemaking (ANPRM) regarding the participation of businesses in the SBIR program that are majority-owned by one or more venture capital companies (VCC).

Sertoli Technologies typifies the small business that the SBIR program was created to help, a small business working to commercialize new technologies in biotechnology. Companies such as ours normally receive SBIR grants to fuel the research and development that lead to the commercialization of a technology. Along with future SBIR funding, our company hopes to receive additional crucial financial support from venture capital firms and other similarly situated entities. Without such financial support it is unlikely our technology would be fully commercialized. It is for this reason I believe it is vital that small businesses such as ours be allowed to participate in the SBIR grant program.

Sertoli Technologies has committed significant resources to develop and commercialize developing products to treat insulin-dependent diabetes and hemophilia, which have the potential to replace chronic drug therapy and provide more effective treatments.

We understand the 51% Rule now allows an SBIR award recipient to be owned by a VCC, as long as the VCC is itself owned and controlled by U.S. individuals. APT Pharmaceuticals has received funds, and expects to receive further funds, from VCCs that are not, in fact, owned or controlled by U.S. individuals. Some of these VCCs are, or could be owned by, a nonprofit entity such as a university or research institution. These entities may differ in structure or ownership from typical VCCs; however, they have similar objectives of encouraging product development by small companies. Additionally, most, if not all, nonprofit VCCs often make investments to advance the objectives of the Bayh-Dole Act. We firmly believe that companies in which nonprofit VCCs invest should be able to participate in the SBIR grant program. Thus, we believe

**that the SBA should (1) provide an exclusion from affiliation with VCCs in determining small business eligibility and (2) include nonprofit related VCC entities within the scope of the definition of VCC considered by the SBA in its rule making.**

I appreciate the opportunity to comment on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Shaun A. Kirkpatrick". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Shaun A. Kirkpatrick  
President  
Sertoli Technologies Inc.



*The cellular immunosciences company*

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## FAX TRANSMITTAL

**To:** Gary M. Jackson, SBA, Assistant Administrator for Size Standards

**From:** Shaun A. Kirkpatrick, Sertoli Technologies Inc.

**Fax number:** 202-205-6390

**Number of pages including cover:** 2

**Date:** April 4, 2005

**Message:**

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